

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

RICARDO RIVERA,  
Relator,

v.

UNITED STATES OF AMERICA,  
Respondent.

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CIVIL ACTION NO. 5:21-CV-00135-RWS

**ORDER**

Before the Court is the Report and Recommendation of the United States Magistrate Judge (Docket No. 4), which contains her findings, conclusions and recommendation for the disposition of this matter. Relator, a former inmate of the Federal Correctional Institution in Texarkana (“FCI-Texarkana”), proceeding *pro se*, filed the above-captioned civil action to petition for writ of mandamus. Docket No. 1. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636 and the applicable orders of this Court. The Report recommends that Relator’s Petition for Writ of Mandamus (Docket No. 1) be denied without prejudice. Docket No. 4. The Court hereby adopts the Report and Recommendation of the Magistrate Judge as the findings and conclusions of this Court.

Relator’s petition requests a writ of mandamus to order prison officials at FCI-Texarkana to award him the home confinement and halfway house time to which he believes he is entitled. Docket No. 1 at 1. After Relator filed his petition, an order concerning his *in forma pauperis* status was mailed to him at his last known address and returned as undeliverable because he was no longer incarcerated at FCI-Texarkana. Docket Nos. 2, 3. The Magistrate Judge later issued a Report recommending the petition be dismissed as moot because the FCI-Texarkana prison officials could no longer assist him in obtaining home confinement and halfway house time, and

the Court could not order them to do so. Docket No. 4 at 2 (citing *Herman v. Holiday*, 238 F.3d 660, 665 (5th Cir. 2001)).

A copy of the Report and Recommendation was mailed to the Relator at his last known address, and a return receipt was requested. The Report and Recommendation was returned with the notation that Relator had been released to home confinement—an additional confirmation that his petition is moot. Docket No. 5. No forwarding address was provided. *Id.* Under the Local Rules of the Eastern District of Texas, *pro se* litigants must provide the court with a physical address and are “responsible for keeping the clerk advised in writing of the current physical address.” Local Rule CV-11(d). To date, the Relator has not updated his address with the Court, or otherwise notified the Court of his present whereabouts, and no objections to the Report and Recommendation have been filed. Relator is, therefore, barred from *de novo* review by the District Court of the Magistrate Judge’s findings, conclusions and recommendations; and, except upon grounds of plain error, Relator is barred from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017).

The Court has reviewed the pleadings in this cause of action and the Report of the Magistrate Judge. Upon such review, the Court concludes that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (where no objections to a Magistrate Judge’s report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”), *cert. denied*, 492 U.S. 918 (1989). It is accordingly

**ORDERED** that the Report of the Magistrate Judge (Docket No. 4) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that Relator’s Petition for Writ of Mandamus (Docket No. 1) is **DISMISSED**

**WITHOUT PREJUDICE.** It is further

**ORDERED** that any and all motions currently pending in this civil action are hereby  
**DENIED-AS-MOOT.**

**So ORDERED and SIGNED this 12th day of September, 2022.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE